

**REMARKS**

Reconsideration and further examination of this application is hereby requested. Claims 1-20 and 23-26 are currently pending in the application. Claims 21 and 22 have been canceled since they are redundant to claims 17 and 18, respectively, which remain pending in this application.

**A. Allowable Subject Matter**

Applicant appreciates the allowance of claim 26. Applicant also appreciates the indication that claims 5, 6, 10-13, 18, and 22-25 recite allowable subject matter. Claims 5, 10-13, 18, and 23-25 have been amended to be in independent form so as to place claims 5, 6, 10-13, 18, and 23-25 in condition for immediate allowance.

**B. Objection to the Title**

The Examiner objects that "caching" is misspelled in the Title of the Invention. It is Applicant's belief that both "cacheing" and "caching" are acceptable alternate spellings for the same word. However, in order to advance prosecution, Applicant has amended the Title to use the spelling preferred by the Examiner. Accordingly, Applicant respectfully submits that this objection has been overcome by amendment.

**C. The Indefiniteness Rejection**

Claim 26 has been rejected under 35 U.S.C. § 112, ¶ 2d as being indefinite for reciting "the group" without an antecedent basis. Applicant respectfully submits that the use of this language is an appropriate format for reciting a Markush group limitation, a time-honored claim drafting technique. No confusion as to the meaning of the claim would arise since this is a well known claim drafting format. Accordingly, Applicant respectfully asks that the Examiner carefully reconsider and withdraw this rejection.

**D. The Obviousness Rejections of Claims 1, 2, 4, 7-9, 14, 15, 17, and 19-21**

Claims 1, 2, 14, and 15 have been rejected under 35 U.S.C. § 103(a) as being obvious over Zerber (US 5951636) in view of Batchelor (US 5278984). Claims 4 and 17 have been rejected under 35 U.S.C. § 103(a) as being obvious over Zerber in view of Batchelor, and further in view of Miloslavsky (US 5765033). Claims 7 and 19 have been rejected under 35 U.S.C. § 103(a) as being obvious over Zerber in view of Batchelor, and further in view of Wang (US 5956521). Claims 8, 9, 20, and 21 have been rejected under 35 U.S.C. § 103(a) as being obvious over Zerber in view of Batchelor and Wang, further in view of Miloslavsky. These rejections are respectfully traversed based on the following arguments.

The obviousness rejections of each of claims 1, 2, 4, 7-9, 14, 15, 17, and 19-21 rely upon the basic combination of Zerber as modified by Batchelor. However, as will be explained, this underlying combination is not legally sufficient to make a case of obviousness.

In order for a patent claim to be obvious, the prior art must teach or suggest each and every limitation of the claim. That is because the claim must be considered as a whole, not distilled down to a "gist."

Independent method claim 1 recites the limitation:

permitting a mail request for a mail client to  
pass through a proxy server to the mail server

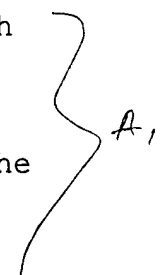
at lines 5 and 6. Independent apparatus claim 14 recites a similar limitation at lines 7 and 8.

Independent method claim 1 also recites the limitation:

delaying subsequent mail requests for the mail  
client at the proxy server until a predetermined  
condition has been satisfied.

See claim 1 at the last two lines. Independent apparatus claim 14 recites a similar limitation at the last three lines.

When considered together, Zerber and Batchelor do not teach or suggest either of these expressly recited limitations. Neither mentions the use of a proxy server. Neither suggests the use of a proxy server to selectively pass or delay email requests.

A handwritten bracket on the right side of the text, spanning from the sentence "Neither mentions the use of a proxy server." down to "Neither suggests the use of a proxy server to selectively pass or delay email requests." To the right of the bracket is a handwritten "A,".

The Examiner notes Figs. 1 and 2 of Zerber as showing this aspect of the invention. However, close review of Zerber shows that machine 6 shown in Fig. 1 cannot be interpreted as a distinct proxy server since Zerber indicates that the "post office system" 4 is implemented *ON* the machine 6. Likewise, Zerber indicates that the "post office system" 20 of Fig. 2 is implemented *ON* the server 16.

As to Batchelor, the queuing system it discloses does not suggest the claimed invention because it is directed to prioritization of how messages are sent out *TO* a post office system, not how those messages are retrieved *FROM* the post office system in the even they may have arrived. The queuing system disclosed by Batchelor has no applicability whatsoever to the claimed actions of selectively permitting or delaying POP checks directed to a mail server.

When Miloslavsky and/or Wang are further considered along with Batchelor and Zerber, these additional references fail to recitify the shortcomings of the Zerber/Batchelor combination. The intelligent router disclosed by Miloslavsky has nothing relevant to teach concerning selectively permitting or delaying POP checks directed to a mail server from mail clients, and in any case the Examiner does not contend that it does. The email message delivery system disclosed by Wang works on a system so

entirely different from that of POP protocols that it cannot reasonably be considered to suggest selectively permitting or delaying POP checks directed to a mail server from mail clients, and in any case the Examiner does not contend that it does.

For the above reasons, Applicant respectfully submits that the Examiner has failed to establish a *prima facie* case of obviousness with respect to claims 1, 2, 4, 7-9, 14, 15, 17, and 19-21. Accordingly, withdrawal of these obviousness rejections is respectfully requested.

**E. The Obviousness Rejections of Claims 3 and 16**

Claims 3 and 16 have been rejected under 35 U.S.C. § 103(a) as being obvious over Zerber in view of Toga (US 5987504). This rejection is respectfully traversed based on the following arguments.

In order for a patent claim to be obvious, the prior art must teach or suggest each and every limitation of the claim. That is because the claim must be considered as a whole, not distilled down to a "gist."

Independent method claim 1 recites the limitation:

    permitting a mail request for a mail client to  
    pass through a proxy server to the mail server

at lines 5 and 6. Independent apparatus claim 14 recites a similar limitation at lines 7 and 8.

Independent method claim 1 also recites the limitation:

delaying subsequent mail requests for the mail client at the proxy server until a predetermined condition has been satisfied.

See claim 1 at the last two lines. Independent apparatus claim 14 recites a similar limitation at the last three lines.

When considered together, Zerber and Toga do not teach or suggest either of these expressly recited limitations. Neither mentions the use of a proxy server. Neither suggests the use of a proxy server to selectively pass or delay email requests.

The Examiner notes Figs. 1 and 2 of Zerber as showing this aspect of the invention. However, close review of Zerber shows that machine 6 shown in Fig. 1 cannot be interpreted as a distinct proxy server since Zerber indicates that the "post office system" 4 is implemented ON the machine 6. Likewise, Zerber indicates that the "post office system" 20 of Fig. 2 is implemented ON the server 16.

The system disclosed by Toga delivers requested information using SMTP protocol as an alternative to transmission via an HTTP protocol via which the information was requested. Although this may have the beneficial effect of moderating network load, it has nothing to do with the claimed subject matter of selectively permitting or delaying POP checks directed to a mail server from mail clients.

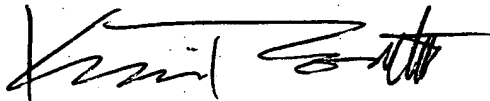
For the above reasons, Applicant respectfully submits that the Examiner has failed to establish a *prima facie* case of obviousness with respect to claims 3 and 16. Accordingly, withdrawal of this obviousness rejection is respectfully requested.

**F. Closing**

For the above reasons, Applicant respectfully submits that the application is in condition for allowance with claims 1-20 and 23-26. If there remain any issues that may be disposed of via a telephonic interview, the Examiner is kindly invited to contact the undersigned at the local exchange given below.

The Director of the U.S. Patent & Trademark Office is authorized to charge any necessary fees, and conversely, deposit any credit balance, to Deposit Account No. 18-1579.

Respectfully submitted,



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